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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,350	12/20/2001	Christopher Peggs	PEGG3001/REF	2605

7590 05/27/2003

Richard E. Fichter
BACON & THOMAS, PLLC
625 Slaters Lane
Alexandria, VA 22314-1176

EXAMINER

NGUYEN, TUAN N

ART UNIT	PAPER NUMBER
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3653

DATE MAILED: 05/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/022350

Applicant(s)

Christopher

Examiner

Tuan Nguyen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three (3) MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/20/01
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: ☐ approved ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☒ All b) ☐ Some* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 20) ☐ Other: _____

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DETAILED ACTION

1. The following guidelines illustrate the preferred layout and content for patent applications.

These guidelines are suggested for the applicant's use.

Arrangement of the Specification

The following order or arrangement is preferred in framing the specification and, except for the reference to the drawings, each of the lettered items should appear in upper case, without underling or bold type, as section headings. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) Title of the Invention.
- (b) Cross-Reference to Related Applications.
- (c) Statement Regarding Federally Sponsored Research or Development.
- (d) Reference to a "Sequence Listing," a table, or a computer program listing appendix submitted on compact disc (see 37 CFR 1.52(e)(5)).
- (e) Background of the Invention.
 1. Field of the Invention.
 2. Description of the Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) Brief Summary of the Invention.
- (g) Brief Description of the Several Views of the Drawing(s).
- (h) Detailed Description of the Invention.
- (i) Claim or Claims (commencing on a separate sheet).
- (j) Abstract of the Disclosure (commencing on a separate sheet).
- (k) Drawings.
- (l) Sequence Listing, if on paper (see 37 CFR 1.821-1.825).

The above section headings are required in the specification.

2. Claims 1-9, 13, 14 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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In claim 1, line 8; claim 9, line 3; and claim 13, lines 8 and 9; the phrase "capable of" is vague and indefinite since it only points out what the invention is "capable" of accomplishing, rather than what it actually does.

Claim 7 is indefinite because on line 1, its dependency is missing after "according to".

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 10-12 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Parker et al..

Parker et al. disclose a wet separator apparatus for use in separating solid waste according to density comprising a separation tank 34 containing a body of liquid; means 62 for creating a horizontal flow of liquid; means 82 for conveying heavy density fraction; means 150 for conveying light density fraction; and a baffle plate 66.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 1-6 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eide et al. (cited by applicant).

Eide et al. disclose a bag splitting apparatus for splitting open bags containing solid waste comprising a rotatable flail structure 10 having a plurality of flexible flails 14; and a waste feed guide 58 and 54. However, Eide et al. do not disclose the flail material having a Young's modulus of less than 50GN/square meter, and does not disclose the flail structure's rotating speed of at least 11 m/s.

However, it would have been obvious to one of ordinary skill in the art to modify the flail material having a Young's modulus of less than 50GN/square meter and to have the flail structure's speed of at least 11 m/s. Such modification constitutes an optimum or workable ranges which are well known in the art. In re Aller, 105 USPQ 233.

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8. Claims 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eide et al. as applied to claim 1 above, and further in view of Muma et al..

Claim 7 is assumed depending from claim 1.

The waste feed guide structure of Eide et al. does not have a top and bottom chute portion.

However, Muma et al. disclose a bag splitting apparatus comprising a rotatable knife 40 for splitting bags; a waste feed guide structure having a top 21 and bottom 51 chute portion wherein both the top and bottom chute portion are able to pivot at a hinge 52.

It would have been obvious to one of ordinary skill in the art to modify the feed guide structure of Eide et al. to have a feed guide structure having a top and bottom chute portion as taught by Muma et al. to accommodate sizes of loose items and bags (Muma et al., column 2, line 66 to column 3, line 7).

9. Claims 13 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eide et al. (cited by applicant) in view of Parker et al..

Eide et al. have been discussed in paragraph 7 above. However, Eide et al. do not disclose a wet separator apparatus.

Parker et al. have been discussed in paragraph 4 above.

It would have been obvious to one of ordinary skill in the art to modify the apparatus of Eide et al. to have a wet separator apparatus as taught by Parker et al. so as to separate materials based on their different densities.

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10. Claim 8 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mayhak and SU'831 are cited to show other pertinent art.

12. Any inquiry concerning this communication should be directed to Examiner Tuan Nguyen at telephone number 703-308-3664.



TUAN NGUYEN
Examiner

5/19/03

tnn,

May 19, 2003.